

Assembly Bill No. 1371

CHAPTER 705

An act to amend Sections 25189 and 25189.2 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 14, 2007. Filed with
Secretary of State October 14, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1371, Ruskin. Hazardous waste: civil penalty.

Existing law authorizes the Department of Toxic Substances Control to impose civil penalties or administrative civil penalties against a person who intentionally or negligently disposes or causes the disposal of hazardous waste at an unauthorized site. Existing law also authorizes the imposition of civil penalties, upon a person illegally disposing of hazardous waste, without regard to the intent of the person.

This bill would, in addition, impose a specified civil penalty or an administrative civil penalty against a person who intentionally or negligently treats or stores, or causes the treatment or storage of, a hazardous waste at an unauthorized site or who treats or stores, or causes that treatment or storage, without regard to the intention of the person. This bill would exempt a person from the imposition of civil penalties for illegal disposal, treatment, or storage, that are imposed without regard to that person's intent, if that person has taken reasonable steps to determine that the transporter is registered or the facility is authorized to accept the hazardous waste being offered.

The people of the State of California do enact as follows:

SECTION 1. Section 25189 of the Health and Safety Code is amended to read:

25189. (a) A person who intentionally or negligently makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter, shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b) Except as provided in subdivision (c), (d), or (e), a person who intentionally or negligently violates a provision of this chapter or a permit, rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter, shall be liable for a civil penalty not to exceed twenty-five

thousand dollars (\$25,000) for each violation of a separate provision or, for continuing violations, for each day that violation continues.

(c) A person who intentionally disposes or causes the disposal of a hazardous or extremely hazardous waste at a point that is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) or more than twenty-five thousand dollars (\$25,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person has knowledge thereof is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(d) A person who negligently disposes or causes the disposal of a hazardous or extremely hazardous waste at a point which is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person had knowledge thereof is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(e) A person who intentionally or negligently treats or stores, or causes the treatment or storage of, a hazardous waste at a point that is not authorized according to this chapter, shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(f) Each civil penalty imposed for a separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

(g) A person shall not be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189.2 for the same act or failure to act.

SEC. 2. Section 25189.2 of the Health and Safety Code is amended to read:

25189.2. (a) A person who makes a false statement or representation in an application, label, manifest, record, report, permit, or other document, filed, maintained, or used for purposes of compliance with this chapter, is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(b) Except as provided in subdivision (c) or (d), a person who violates a provision of this chapter or a permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each

violation of a separate provision or, for continuing violations, for each day that the violation continues.

(c) A person who disposes, or causes the disposal of, a hazardous or extremely hazardous waste at a point that is not authorized according to the provisions of this chapter is liable for a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court or, in the case of an administrative action, a hearing officer, may direct. Each day on which the deposit remains is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(d) A person who treats or stores, or causes the treatment or storage of, a hazardous waste at a point that is not authorized according to this chapter, shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(e) For purposes of subdivisions (c) and (d), a person who offers hazardous waste to a transporter that is registered pursuant to Section 25163 or to a storage, treatment, transfer, resource recovery, or disposal facility that holds a valid hazardous waste facilities permit or other grant of authorization from the department that authorizes the facility to accept the waste being offered shall not be considered to have caused disposal, treatment, or storage of hazardous waste at an unauthorized point solely on the basis of having offered that person's waste, provided the person has taken reasonable steps to determine that the transporter is registered or the facility is authorized by the department to accept the hazardous waste being offered.

(f) A person shall not be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189 for the same act or failure to act.

(g) Liability under this section may be imposed in a civil action or liability may be imposed administratively pursuant to Section 25187.